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TRAINING AND ASSISTANCE

Note by the Secretariat

1. At the twentieth session of the Commission (1987) it was "noted that training and assistance was an important activity of the Commission and should be given a higher priority than it had in the past". 1/

2. Accordingly, the secretariat has endeavoured to devise a more extensive progamme of training and assistance than had been previously carried out. The programme is designed primarily to acquaint lawyers, scholars and government officials, particularly from developing countries, with the work of UNCITRAL and with the legal texts that have emanated from its work and to promote the adoption and use of those texts. This note describes the developments following the twenty-second session of the Commission (1989) and discusses possible future activities.

I. INTERNATIONAL, REGIONAL AND NATIONAL SEMINARS

A. Seminar on international trade law and arbitration in India (Delhi, 12 to 16 October 1989)

3. The seminar on international trade law and arbitration held in Delhi was hosted by the Indian Council of Arbitration and sponsored by the Asian-African Legal Consultative Committee (AALCC), UNCITRAL, United Nations

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1/ Report of the United Nations Commission on International Trade Law on the work of its twentieth session, Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

Conference on Trade and Development (UNCTAD) and International Institute for the Unification of Private Law (UNIDROIT). The purpose of the seminar was to promote awareness of the conventions and other legal texts prepared by the sponsoring organizations in the Asian member States of AALCC.

4. AALCC made all of the arrangements for the holding of the seminar, including the issuing of invitations. UNCITRAL paid for air travel expenses of some of the participants and some of the administrative costs of holding the seminar. The majority of the participants were from the embassies of the respective States in Delhi. In addition, in exchange for permitting the use of its facilities without charge, the Indian Council of Arbitration was permitted to invite up to 60 of its members to attend the seminar.

5. Lectures were given by members of the secretariats of the three co-sponsoring organizations on the texts on international trade law prepared by their organizations. In the case of UNCITRAL, the lectures were given on international sale of goods, the carriage of goods by sea, international commercial arbitration and international bills of exchange and international promissory notes.

B. Seminar in Guinea (Conakry, 27 to 29 March 1990)

6. A two-day seminar was hosted by the Government of Guinea and organized by the Ministry of Foreign Affairs. The purpose of the seminar was to explain the UNCITRAL legal texts to a broad cross-section of the local legal community.

7. Approximately 120 participants from the interested ministries, the university and the private sector attended the seminar. The lectures were given in French by two lecturers, one of whom was a member of the secretariat.

C. Seminar on International Trade Law in U.S.S.R. (Moscow, 17 to 21 April 1990)

8. As announced to the twenty-second session of the Commission (1989), a seminar on the work of the Commission was held in Moscow from 17 to 21 April 1990 for participants from developing countries (A/44/17, para. 285). The School of International Private and Civil Law and the School of International Business of the Moscow State Institute for Foreign Relations hosted the seminar. The seminar was financed from a trust fund established by the Soviet Union with the United Nations Development Programme for training of individuals from developing countries. Twenty-one participants from developing countries attended the seminar.

9. The lectures were given in English or in Russian with simultaneous interpretation into the other language. They were given by six lecturers from the Soviet Union, six non-Soviet lecturers who have been associated with the Commission as delegates and two members of the secretariat.

10. The lectures at the seminar included the following topics: UNCITRAL: its history, current activities and plans for the future; international sale of goods; international bills of exchange and international promissory notes; carriage of goods by sea, international commercial arbitration and restructuring of the foreign economic relations of the U.S.S.R. and its legal aspects. The lectures were followed by periods of questions and discussions.

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D. Other seminars, conferences, courses or professional meetings

11. Members of the UNCITRAL secretariat participated as speakers in other seminars, conferences or professional meetings where UNCITRAL legal texts were presented for examination and discussion. The UNCITRAL secretariat was represented at the following seminars, conferences, courses or professional meetings: (i) course on "International Transport of Goods: Contracts and Insurance" organized by the International Development Law Institute (Rome, December 6-19, 1988), United Nations Convention on the Carriage of Goods by Sea, 1978 (the Hamburg Rules); (ii) course on international payment organized by the Inter-University Centre of Postgraduate Studies (Dubrovnik, 20-25 March 1989), United Nations Convention on International Bills of Exchange and International Promissory Notes and the Legal Guide on Electronic Funds Transfers; (iii) course on "Development Assistance Agency Procurement Guidelines" organized by the International Development Law Institute (Rome, 9-12 May 1989), Public Procurement; (iv) seminar on international commercial arbitration organized by Asian-African Legal Consultative Committee (AALCC) (Kuala Lumpur, 4-5 July 1989), UNCITRAL Model Law on International Commercial Arbitration; (v) the Eighth Meeting of Latin American Banking Lawyers (Montevideo, 5-7 July 1989), United Nations Convention on International Bills of Exchange and International Promissory Notes; (vi) course organized by the United Nations Institute for Training and Research (UNITAR) under the United Nations-UNITAR Fellowship Programme (Hague, 19-21 July 1989), UNCITRAL Arbitration Rules and UNCITRAL Model Law on International Commercial Arbitration; (vii) seminar sponsored by the Institute for Maritime Law and Maritime Trade Law (University of Hamburg, 29-30 September 1989), Draft Convention on the Liability of Operators of Transport Terminals in International Trade; (viii) the third Euro-Arab Arbitration Congress sponsored by the Euro-Arab Chambers of Commerce in co-operation with the Federation of Jordanian Chambers of Commerce (Amman, 23-25 October 1989), UNCITRAL Model Law on International Commercial Arbitration; and (ix) seminar on Current Legal Issues Affecting Central Banks organized by the International Monetary Fund (Washington, D.C., 26 April 1990), UNCITRAL's recent work of interest to legal advisers of central banks.

II. THE INTERNSHIP PROGRAMME

12. The programme is designed to enable persons who have recently obtained a law degree, or who have nearly completed their work towards such a degree, the opportunity to serve as interns in the International Trade Law Branch. Interns are assigned specific tasks in connection with projects being worked on by the secretariat. Persons participating in the programme are able to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. In addition, the secretariat occasionally accommodates scholars and legal practitioners for a limited period of time.

13. Each year an average of four interns have been accepted. In response to a questionnaire sent by the secretariat to all persons that served as interns, the general feeling expressed was that the programme provides an excellent opportunity for interns to learn and broaden their knowledge in the field of international trade law and thereby appreciate better the work of UNCITRAL.

14. The majority of the interns, so far, have come from developed countries. While the opportunity for internship with the secretariat is available to all candidates, and an increasing number of enquiries have been received from candidates from developing countries, only a small number of interns from developing countries have participated because of lack of financial support. The United Nations is not in a position to provide financial assistance to interns. Normally the interns provide their own funds for travel and subsistence during the period of internship.

15. The United Nations Institute for Training and Research (UNITAR), which conducts the United Nations/UNITAR fellowship programme, has awarded grants to interns to receive training with the Office of Legal Affairs. UNITAR fellowships were awarded to two interns to serve with the UNCITRAL secretariat in 1981 and 1984.

III. POSSIBLE FUTURE ACTIVITIES

16. The secretariat expects to intensify even further its efforts to organize or co-sponsor seminars and symposia on international trade law, especially for developing countries.

A. The fourth UNCITRAL Symposium

17. As announced to the twenty-second session of the Commission, in view of the success of the third UNCITRAL symposium held at Vienna, it is intended to organize the fourth UNCITRAL Symposium on International Trade Law on the occasion of the twenty-fourth session of the Commission, in 1991 (A/44/17, para. 283).

B. Tentative plans for regional seminars

18. It is hoped that regional seminars would be held, where possible, with regional organizations in developing countries in different parts of the world. Regional seminars require fairly large amounts of funds to cover travel and other expenses of participants and lecturers. Such seminars provide excellent opportunity for participants from a given region to address common legal problems faced by the member States.

19. Tentative plans have been made with the Comisión Centroamericana de Transporte Marítimo (COCATRAM) to sponsor a series of seminars on the Hamburg Rules in each of the member States of COCATRAM. The plans are for the seminars to be held in July or August. A member of the UNCITRAL secretariat would be among the lecturers.

20. A seminar for the seventeen francophone States of North and West Africa is planned to be held in the fourth quarter of 1990. The seminar will be organized on the pattern of the Lesotho Seminar in July 1988. 2/ The plans are to invite three participants from each of the participating States. The participants will be chosen from the ministries interested in the work of the Commission, the universities or the private sector.

21. A location for the seminar has not as yet been fixed. A Government in the region has been asked to host the seminar, but has not as yet replied. The estimated budget for this seminar is $US 150,000. The Government of

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2/ This seminar was reported in a note by the secretariat submitted to the twenty-second session in 1989, A/CN.9/323, paras. 2-11.

France has made a contribution of approximately $US 77,000 and the Government of Luxemburg a contribution of $US 500 to cover the expenses of the seminar. It is hoped that the remainder of the estimated budget will be covered by additional contributions specifically intended for the seminar.

22. The UNCITRAL secretariat is currently holding discussions with the secretariat of the South Pacific Bureau for Economic Co-operation (SPEC) with a view to sponsoring a seminar in the Pacific region. The initial response has been encouraging and the secretariat hopes to co-sponsor a seminar with SPEC in the region sometime in 1991.

C. Request for national seminars

23. The UNCITRAL programme of training and assistance and participation of members of the UNCITRAL secretariat in other seminars and conferences have helped to bring about awareness of the work of the Commission and its legal texts among many developing countries. A number of enquiries relating to the training and assistance programme of the Commission have been received from secretariats of regional organizations, particularly from developing countries. In addition, the secretariat is increasingly receiving requests from developing countries for national seminars on UNCITRAL legal texts similar to the seminar held in Conakry (see paras. 6-7, above).

24. The main purpose of such seminars is to inform a wide cross-section of the community in a given country of the UNCITRAL legal texts to help build a broad consensus in favour of the adoption of some or all of the texts. National seminars tend to be cost effective in that participants attend at little or no cost. Funds are required to cover only the travel and other expenses of the lecturers. It is hoped that it will be possible to organize a series of national seminars in neighbouring countries in various regions so as to minimize the costs in time of the lecturers and in money.

D. Technical assistance

25. The awareness of the UNCITRAL legal texts among many countries, in particular developing countries, is coupled with increasing requests for technical assistance from individual Governments or regional organizations. The secretariat has been requested on a number of occasions to consult with individual countries during their consideration of one of the UNCITRAL texts. This has normally consisted of comments in writing on reports and draft legislation, preparation of Accession Kits or a comparison of the UNCITRAL legal text with the existing law of a given country and a discussion of its advantages and disadvantages in comparison to the existing law. It has also consisted of travel to the country in question to consult with relevant officials.

26. Requests from regional organizations range from review of laws of member States with a view to harmonization and possible unification to provision of a consultant. For example, recently the Preferential Trade Area for Eastern and Southern African States (PTA) requested a consultant for a year to assist in the establishment of the arbitration system for the whole region using the UNCITRAL Arbitration Rules and the UNCITRAL Model Law on International Commercial Arbitration.

27. Requests for such assistance have placed additional work on the secretariat. Nevertheless, it is believed that every effort should be made to meet those requests, both because of their relationship to the adoption of the texts prepared by UNCITRAL and because of their importance to the development of international trade law. There are clear indications that the requests for such assistance will continue to increase, especially in the light of the growing number of UNCITRAL legal texts.

IV. FINANCIAL AND ADMINISTRATIVE CONSIDERATIONS

28. In order to carry out the programme on training and assistance effectively, an adequate source of funds needs to be assured. No funds are provided in the regular budget for training and assistance activities, whether in order to train young lawyers and scholars or to promote the adoption of the UNCITRAL texts (except for an allocation of a small amount of staff time). As a result, funding for travel of participants or lecturers must normally be met from voluntary contributions to the UNCITRAL Symposia Trust Fund. Accordingly, the Commission at its twenty-second session in 1989 recalled the invitation of the General Assembly in paragraph 5(c) of resolution 43/166 of 9 December 1988 to Governments, the relevant United Nations organs, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Symposia Trust Fund for the financing of such activities. It also recalled its earlier invitation that such voluntary contributions be made, where possible, on an annual basis (A/44/17, para. 287).

29. In addition to assured financial resources, an effective programme of training and technical assistance requires adequate administrative resources. So far, the administrative requirements of the programme have been met by the existing staff of the secretariat. It appears that the programme carried out during the last two years has been the maximum that can be accommodated with the current staff. Moreover, the secretariat is of the view that it has not been able to remain in contact with participants in the various seminars as effectively as would be desired. Such continuing contact with participants is important to gain maximum value from the seminars. Some relief is expected in the near future with the appointment of a Junior Professional Officer furnished by the Government of Italy, one of whose duties will be the organization and follow-up to the training and assistance activities of the secretariat.

30. The Commission may wish to express its appreciation to those States and institutions that have contributed to the Commission's programme of training and assistance by contribution of funds or staff or by the hosting of seminars. The Commission may also wish to request the secretariat to continue its efforts to secure the financial, personnel and administrative support necessary to place the programme on a firm and continuing basis.